

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In re	)	
	)	
<b>MARITIME COMMUNICATIONS/LAND</b>	)	EB Docket No. 11-71
<b>MOBILE, LLC</b>	)	File No. EB-09-IH-1751
	)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of	)	
Various Authorizations in the Wireless Radio	)	
Services	)	
	)	
Applicant for Modification of Various	)	Application File Nos. 0004030479,
Authorizations in the Wireless Radio Services	)	0004144435, 0004193028, 0004193328,
	)	0004354053, 0004309872, 0004310060,
Applicant with <b>ENCANA OIL AND GAS (USA),</b>	)	0004314903, 0004315013, 0004430505,
<b>INC.; DUQUESNE LIGHT COMPANY; DCP</b>	)	0004417199, 0004419431, 0004422320,
<b>MIDSTREAM, LP; JACKSON COUNTY</b>	)	0004422329, 0004507921, 0004153701,
<b>RURAL MEMBERSHIP ELECTRIC</b>	)	0004526264, 0004636537,
<b>COOPERATIVE; PUGET SOUND ENERGY,</b>	)	and 0004604962
<b>INC.; ENBRIDGE ENERGY COMPANY,</b>	)	
<b>INC.; INTERSTATE POWER AND LIGHT</b>	)	
<b>COMPANY; WISCONSIN POWER AND</b>	)	
<b>LIGHT COMPANY; DIXIE ELECTRIC</b>	)	
<b>MEMBERSHIP CORPORATION, INC.;</b>	)	
<b>ATLAS PIPELINE – MID CONTINENT, LLC;</b>	)	
<b>DENTON COUNTY ELECTRIC</b>	)	
<b>COOPERATIVE, INC. , DBA COSERV</b>	)	
<b>ELECTRIC; AND SOUTHERN CALIFORNIA</b>	)	
<b>REGIONAL RAIL AUTHORITY</b>	)	

To: Marlene H. Dortch, Secretary

Attention: Chief Administrative Law Judge Richard L. Sippel

**ENFORCEMENT BUREAU’S RESPONSE TO CHOCTAW’S UNAUTHORIZED  
MOTION TO CORRECT THE RECORD**

1. On January 23, 2013, Choctaw Telecommunications, LLC and Choctaw Holdings, LLC (Choctaw) filed a Petition to Stay all of the issues designated in the above-captioned hearing, including Issue (g), pending resolution of its request for *Second Thursday*

relief.<sup>1</sup> On January 29, 2013, the Enforcement Bureau (Bureau) filed an Opposition in which it correctly pointed out that the Presiding Judge has already considered and resolved the exact question of whether to stay all of the issues designated for hearing, including Issue (g).<sup>2</sup> A day later, on January 30, 2013, Choctaw filed a pleading which it entitled, “Motion to Correct the Record,” but which amounts to nothing more than an unauthorized reply brief to which Choctaw has no automatic right under the Commission’s rules.<sup>3</sup>

2. Choctaw’s reply relies on a passage from the transcript of the October 25, 2011 prehearing conference, during which the Presiding Judge raised questions about Maritime’s likelihood of success on its potential request for *Second Thursday* relief – and thus whether its request for a stay of the hearing should be granted. At the conclusion of the prehearing conference, the Presiding Judge stayed discovery on all Issues designated for hearing other than Issue (g). The Presiding Judge concluded that, irrespective of Maritime’s likelihood of success on its *Second Thursday* relief, Issue (g) “has to be litigated, and there’s no reason to hold it up.”<sup>4</sup> Thus, whether Choctaw now has answers to the questions the Presiding Judge raised about Maritime’s earlier stay request is immaterial to whether a stay on Issue (g) is warranted.

3. Nothing in Choctaw’s reply demonstrates that it has met the four-part test for a stay. Choctaw has not shown (1) that it is likely to prevail on the merits, including its waiver request regarding Issue (g); (2) that proceeding with a hearing on Issue (g) will cause irreparable injury to Choctaw or any other creditor; (3) that a stay of Issue (g) will not cause harm to other parties in hearing; and (4) that the public interest is served by a stay of Issue (g). Accordingly,

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<sup>1</sup> See Petition to Stay, filed January 23, 2013 (Petition).

<sup>2</sup> See Enforcement Bureau’s Opposition to Choctaw’s Petition to Stay, filed January 29, 2013 (Opposition).

<sup>3</sup> See Section 1.294 of the Commission’s rules, 47 C.F.R. §1.294. Choctaw’s footnote requesting leave to file this pleading fails to present any basis for why it should be granted leave to do so.


<sup>4</sup> October 25, 2011 Prehearing Conference Transcript at p. 257. See also Opposition at 2.

Choctaw's pleading offers no basis for the Presiding Judge to reverse his ruling on allowing Issue (g) to proceed.

4. For the foregoing reasons, and for those addressed in the Bureau's Opposition, the Bureau respectfully asks the Presiding Judge to deny Choctaw's request to stay the hearing on Issue (g).

Respectfully submitted,

P. Michele Ellison  
Chief, Enforcement Bureau



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January 31, 2013

## **CERTIFICATE OF SERVICE**

Makia Day, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 31st day of January, 2013, sent by first class United States mail copies of the foregoing "ENFORCEMENT BUREAU'S RESPONSE TO CHOCTAW'S UNAUTHORIZED MOTION TO CORRECT THE RECORD" to:

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